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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/917,447	07/27/2001	Scott Fergusson	1137.1102101	9699
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EXAMINER

KRISCIUNAS, LINDA MARY

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/917,447

Applicant(s)

FERGUSON ET AL.

Examiner

Linda Krisciunas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Non-Final Office Action in response to the applicant's arguments filed April 17, 2006. Claims 1-29 are pending. No amendments have been made to the claims.

Response to Arguments

2. The Examiner has fully considered the Applicant's arguments and they are deemed moot in light of the new art rejection that follows.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6-8 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Maloney et al (US 5,818,907).

As per claims 1 and 13, Maloney teaches a method for providing supervision over the activities of a number of representatives of a business (column 2, lines 32-48, where there is a supervisor who monitors service representatives at a call center), the method comprising the steps of: providing a database (column 7, lines 16-18), each of the number of representatives recording his/her activities in the database (column 8, lines 9-14, where the recording sessions (174) are entered into the database and are a

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record of the activities of the representatives. The system is set up to automatically record their activities while they are entering information or talking to the client. This is equivalent to the representative recording their activity as it performs an identical function in substantially the same manner with substantially the same results); providing a number of reports, each report defining a number of unacceptable activity parameters (Figure 1, teaches a quality scoring report (26), where quality scoring constitutes making a determination between good and bad or acceptable and unacceptable.); running the number of reports against the database, each report checking the recorded activities of each representative against the number of unacceptable activity parameters defined in the report (Figure 1: Quality scoring report (26) which is based on the activity data in the database, would keep a tally or track the acceptable and unacceptable parameters); and providing a listing of alerts for only those activities in the database that fall within the unacceptable activity parameters defined in the number of reports (Figure 1: Follow up Program (28) where the representative is informed of their scores and is a means for improving overall performance quality as noted in column 4, lines 18-20. The follow up report represents an alert as it informs or alerts the representative to the status of their performance with respect to quality. Therefore the Follow up program is equivalent to an alert as it performs an identical function in substantially the same manner with substantially the same results.).

As per claim 6, Maloney teaches a method of storing the listing of alerts in the database. (column 8, lines 9-14, where the recording sessions (174) are entered into

the database and the reports are generated as part of the process, according to Figure 5, of using the sessions where the report represents an alert as it informs or alerts the representative to the status of their performance with respect to quality. The report is equivalent to an alert as it performs an identical function in substantially the same manner with substantially the same results.)

As per claim 7, Maloney teaches a method of performing follow up activity for selected alerts; and recording the follow up activity for the selected alerts in the database.(Figure 1: Follow up Program (28) where the representative is informed of their scores and is a means for improving overall performance quality as noted in column 4, lines 18-20, where the follow up program is part of the overall system taught in column 7, lines 16-18. All the report information is recorded or stored in a database as indicated in Figure 5.)

As per claim 8, Maloney teaches a method of assembling a listing of alerts that were generated during a predetermined previous time period. (The reports, which represent the alerts, are listed in schedule report (246) as noted in column 9, lines 24-26 where all monitoring sessions are listed according to groups and subgroups. The reports are equivalent to an alert as it performs an identical function in substantially the same manner with substantially the same results.)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5, 9-10, 12, 14-16 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney et al (US 5,818,907) in view of Levine et al (US 6,233,566).

As per claim 2, Maloney does not explicitly teach changing the unacceptable parameters. Levine teaches that it is known that the number of unacceptable activity parameters can be changed by a user or representative charged with the supervision of the activities of the number of representatives. (column 11, lines 40-50, where the manager can manipulate the data in the criteria database (245).) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the editing feature of Levine to provide means for updating the criteria that is used in the system which allows it to be current and accurate.

As per claims 3-4, Maloney does not explicitly teach batch mode or preset intervals for reports. Levine teaches that it is known that selected reports are run against the database in a batch mode during off peak hours. (column 12, lines 9-11, where nightly would constitute an off peak time and weekly would constitute a preset interval.) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the batch mode feature of Levine to provide means for generating reports to provide a means to minimize a strain on resources.

As per claim 5, Maloney does not explicitly teach reports run after a predetermined function from the representative. Levine teaches that it is known that selected reports are run against the database when a representative performs a predetermined function. (column 12, lines 5-11, where the information can be updated on a continuous basis as soon as live data is entered which would follow once the representative performs the operation of entering the information.) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the report feature of Levine to provide means for providing the report information on a continuous basis as soon as the representative enters the information. This provides real-time data which can allow corrective actions or other strategies to take place sooner.

As per claim 9, Maloney does not explicitly teach a search function. Levine teaches that it is known to identify selected alerts using a search function. (See Figure 14 where a search can be made with respect to a priority code.) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the search feature of Levine to provide means for finding a specific report/alert.

As per claim 10, Maloney does not explicitly teach compliance. Levine teaches that it is known to provide compliance related materials to a user.(column 21, lines 50-55, where the user can set up rules which are equivalent to compliance materials as

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they perform an identical function in substantially the same manner with substantially the same results.) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the compliance feature of Levine to provide means for providing rules by which the users will know how to best interact with the system.

As per claim 12, Maloney does not explicitly teach accessing the database for an alert. Levine teaches that it is known that the step of accessing one or more entries in the database that correspond to a selected alert. (See Figure 24, where the buy alert shows a list of clients that meet the underwriting criteria and the files can be searched and accessed for further review as indicated in Figure 14). Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the access feature of Levine to provide means for finding a specific report/alert.

As per claim 14, Maloney teaches a method for providing a report used by a supervisor for supervising the activities of a number of representatives of a business (column 2, lines 32-48, where there is a supervisor who monitors service representatives at a call center), wherein each of the number of representatives records his/her activities in the database (column 8, lines 9-14, where the recording sessions (174) are entered into the database and are a record of the activities of the representatives. The system is set up to automatically record their activities while they

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are entering information or talking to the client. This is equivalent to the representative recording their activity as it performs an identical function in substantially the same manner with substantially the same results), the method comprising: identifying one or more unacceptable activities; defining one or more unacceptable activity parameters for detecting the one or more unacceptable activities when the report is run against the database (Figure 1: Quality scoring report (26) which is based on the activity data in the database, would inherently track acceptable and unacceptable parameters).

Maloney does not explicitly teach changing the parameters. Levine teaches that it is known to determine which of the unacceptable activity parameters can be changed by the supervisor, resulting in one or more changeable activity parameters (column 11, lines 40-50, where the manager can manipulate the data in the criteria database (245) and Figure 22 which depicts changing parameters for FICO, CLTV and Debt ratio); and generating the report, the report including the one or more unacceptable activity parameters including one or more of the changeable activity parameters. (Figure 22 where those applications meeting the parameters set forth would be logged to the accepted file or report for that user as explained in column 22, lines 19-37.) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the editing of parameters feature of Levine to provide means for updating the criteria that is used in the system which allows it to be current and accurate.

As per claim 15, Maloney does not explicitly teach activities that fall within the unacceptable parameter. Levine teaches that it is known the report is adapted to provide an alert for those activities in the database that fall within the unacceptable activity parameters defined in the report. (column 22, lines 19-37 where those loans not meeting the criteria or those that fall within the unacceptable parameters are recorded as being declined for that user.) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the unacceptable parameters feature of Levine to provide means for discerning what is acceptable and unacceptable such that the results can be easily categorized.

As per claim 16, Maloney does not explicitly teach the business is a financial services firm and the representatives are brokers. Levine teaches that it is known that the business is a financial services firm and the representatives are brokers (column 5, line 56: financial products and column 25, lines 35-47, where brokerage firms, ie brokers, can be used in the system. See also claim 2.). Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the editing of parameters feature of Levine to provide means for updating the criteria that is used in the system which allows it to be current and accurate.

As per claim 27, Maloney teaches a method for providing a report used by a supervisor for supervising the activities of a number of representatives of a business (Figure 1: quality scoring report (26)), wherein each of the number of representatives

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records his/her activities in the database (column 8, lines 9-14, where the recording sessions (174) are entered into the database and are a record of the activities of the representatives. The system is set up to automatically record their activities while they are entering information or talking to the client. This is equivalent to the representative recording their activity as it performs an identical function in substantially the same manner with substantially the same results), the method comprising: identifying one or more acceptable activities; defining one or more acceptable activity parameters for detecting the one or more acceptable activities when the report is run against the database (Figure 1, teaches a quality scoring report (26) which would inherently contain acceptable and unacceptable parameters). Maloney does not explicitly teach changing parameters. Levine teaches that it is known to determine which of the acceptable activity parameters can be changed by the supervisor, resulting in one or more changeable activity parameters (column 11, lines 40-50, where the manager can manipulate the data in the criteria database (245) and Figure 22 which depicts changing parameters for FICO, CLTV and Debt ratio); and generating the report, the report including the one or more acceptable activity parameters including one or more of the changeable activity parameters (Figure 22 where those applications meeting the parameters set forth would be logged to the accepted file or report for that user as explained in column 22, lines 19-37). Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with

the editing of parameters feature of Levine to provide means for updating the criteria that is used in the system which allows it to be current and accurate.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney et al (US 5,818,907) in view of Levine et al (US 6,233,566).

As per claim 11, Maloney teaches a method of recording when the user views or access the compliance related materials. Official notice is taken that it is old and well known for a database to record the activities of a user whether it be accessing rules etc. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Maloney with a recording feature of when a user accesses or views a screen to provide a detailed report of the activities involved with the database and what users performed what operations to track database usage.

8. Claims 17-26 and 28-29 rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney et al (US 5,818,907) in view of Levine et al (US 6,233,566) in further view of LaFore et al (US 2002/0032640).

As per claims 17 and 18, Maloney does not explicitly teach specific financial account data and maintaining a record of the trade. LaFore teaches that it is known that the database includes account numbers and date of birth of the customer as well as recording the trade by the representative (paragraph 3-4: "Section 17(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") requires registered broker dealers to make, keep, furnish and disseminate records and reports prescribed by the SEC "as necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Exchange Act." Rules 17(a)(3) and

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17(a)(4) of the Exchange Act specify minimum requirements with respect to the records that broker-dealers must keep, as well as the periods during which those records and other documents relating to the broker-dealers' business must be preserved. The SEC, self-regulatory organizations ("SROs"), and state securities regulators must have timely access to these records to conduct effective examinations involving broker enforcement actions. Rule 17(a)(3) requires broker-dealers to generate local office blotters, record supplemental information on brokerage order memoranda, create customer account forms, and maintain additional records concerning associated persons, customer complaints, and exceptional activity in customer accounts. Furthermore, the rule requires that broker-dealers designate a principal to be responsible for books and records compliance, and requires broker-dealers to make certain records available to each of their local offices. The rules are even requiring the monitoring and reporting of electronic mail (e-mail) correspondence to and from a broker." Whereby the customer account forms would include date of birth as this is pertinent information for record keeping purposes.). LaFore is an analogous art as it also teaches about monitoring workers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the database system as taught by Maloney with the account number, date of birth and trade recording features as taught by LaFore since such a modification would provide a more inclusive database system for customer information.

As per claims 19-20 and 22-26, Maloney teaches having a customer database which can generate various reports (Figure 1: quality scoring reports (26) and column

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7, lines 16-18: database), but does not explicitly teach specific unacceptable activities of: too much trading by older customers, date of birth and number of trades, date of birth on or before the parameter and exceeds the number of trades parameter, a margin balance that is too large relative to the equity value, too many Annuity 1035 exchanges, too much trade activity in discretionary accounts, and having too many unacceptable activities in a set time period. LaFore teaches user-configurable (paragraph 15: "The data processing system maintains records on client information such as names, addresses, types of investments, trade activity, funds availability, investment objectives, as further discussed below. In addition, the data processing system generates reports on daily trade activity, production/activity by stockbroker, activity by client and by almost any other category which has been designated a data field within the data processing system." Whereby the system generates reports on any category that there is a data field for including the client information and trade activity.). LaFore is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the database of Maloney with the financial information of LaFore to provide a more user-friendly system of a custom-designed report that would allow for the segregating of unacceptable activities.

As per claim 21, Maloney does not explicitly teach changing date of birth and number of trade parameters by a supervisor. LaFore teaches that it is known to change date of birth and number of trades parameters by a supervisor (paragraph 101: "A person granted administrator level privileges is able to access all user screens and to

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edit or add trade records, or change other data such as client or broker profiles.” A supervisor would likely be granted administrator privileges and are able to change other data which may include the criteria for the reports). LaFore is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the database of Maloney with the supervisor modification feature of LaFore to provide a more user-friendly database system.

As per claim 28, Maloney teaches a method wherein the report is adapted to provide an alert for those activities in the database that fall outside of the acceptable activity parameters defined in the report. (See Figure 1: quality scoring report (26) which would inherently list acceptable and unacceptable values. If it falls within the unacceptable area, it must be outside the acceptable area.)

As per claim 29, Maloney does not explicitly teach an alert not connected to a data field. LaFore teaches that it is known to have an alert that corresponds to an activity other than neglecting to enter information in data fields in a customer account (See Figure 27 which is an audit report. This report alerts the viewer to all transactions conducted. Paragraph 103: “FIG. 27 illustrates a user interface screen or display showing a information which is a complete audit trail of modifications made to an example trade record once the trade record has been initially created by the representative and stored in the main database. This audit trail may be in the form of a audit report 210 which lists all activity with regard to the particular trade record. As shown, this audit report 210 identifies the particular trade record, all modifications

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made to the trade record by identification of the person or persons modifying the trade record, and the date and time on which the trade record was modified. As mentioned above, each and every modification made to a trade record is stored in the main database, to include changes made by a user having administrator level privileges. This type of complete audit trail provides security regulators the opportunity to see the "life history" of a trade record, and further prevents any unauthorized tampering of trade records. Of course, at some point in time, trade records no longer need to be kept in accordance with SEC guidelines. Accordingly, the administrator may, at the appropriate time, delete an entire trade record history, but does not have the capability to delete selected data fields showing modifications to a particular trade record. In this way, tampering is also prevented with regard to "active" trade records being maintained by the data processing system because the entire life history is preserved until such point in time when the trade record no longer must be maintained. Because deletion of trade records can only be accomplished by an administrator in accordance with the authorizations provided by the data processing system, this prevents a larger group of other users from having the ability to destroy trade records." LaFore is an analogous art as it also teaches about monitoring workers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the database system as taught by Maloney with the alert features as taught by LaFore since such a modification would provide a more user-friendly database system.

Conclusion

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9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following art also teaches about monitoring workers: Cook (US 2002/0198824), Busch (US 2005/0273361), Hawkins et al (US 6,247,000), Donlavage et al (US 2001/0034655), Cogger et al (US 2002/0087383), Eicher et al (US 2002/0099578), Kramer (US 5,038,284), Del Rey et al (US 2004/0162773), Siegel et al (US 2002/0046049), Beck et al (US 2002/0055853) and Holmes (US 2002/0138296).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Krisciunas whose telephone number is 571-272-6931. The examiner can normally be reached on Monday through Friday, 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LMK
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May 10, 2006


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